

Application No.: 10/663,486

Docket No.: SPINE 3.0-437
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IN THE DRAWINGS

Twenty-seven (27) sheets of formal drawings are submitted herewith to replace the informal drawings as originally filed. No new matter has been added to the replacement drawings.

Attachment: Replacement Sheets

REMARKS

The present communication is responsive to the Official Action mailed March 16, 2006. A petition for a three-month extension of the term for response to said Official Action, to and including September 16, 2006, is transmitted herewith. As September 16, 2006, a Saturday, the present response should be considered timely if filed on or before September 18, 2006.

In the Official Action, the Examiner requested that Applicants amend the first paragraph of the present specification so as to correctly claim priority. In response to this request, Applicants have amended the term "continuing" in paragraph 0001 to correctly state the relationship between the present application and the preceding applications. No new matter has been added to the application as a result of this amendment.

Similarly, as requested by the Examiner, Applicants have reviewed the specification so as to check for unnecessary errors. As such, Applicants hereby submit replacement drawings, which, although are exactly the same as the previously submitted drawings, the replacement drawings are more formal.

Claim Rejections - 35 U.S.C. § 102 - Gill

Claims 1-10 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,113,637 to Gill ("Gill"). The Examiner contends that Gill discloses all the recitations included within claims 1-10.

Dependent claim 1 of the present application includes the recitation that perimetrical regions of the base plates include "at least one pair of opposing recesses having walls." These recesses are clearly illustrated in FIGS. 1aa-1ff. Specifically, Applicants are referring to elements 1320a-1320f

in the figures. In reviewing *Gill*, it is clear that *Gill* does not disclose "at least one pair of opposing recesses." *Gill* discloses two base plates that have portions that confront one another. One of the base plates includes a concave surface 50 that is positioned within a convex surface 30 of the opposing base plate. Therefore, at best, only one of the base plates in *Gill* discloses a recess, while the other one actually discloses a protrusion. Further, if the Examiner asserts that the recesses or apertures 36 of *Gill* are equivalent to the recesses in present claim 1; he is incorrect. This is because the apertures 36 of *Gill* do not oppose one another, as included within independent claim 1, as well as independent claim 6, of the present specification.

For this reason, Applicants assert that claims 1-10 are patentably distinct from *Gill* and should be deemed allowed.

Claim Rejection - Double-Patenting

Claims 1 and 6 are provisionally rejected on the ground of non-statutory obvious-type double-patenting, as being unpatentable over claim 1 of pending U.S. Patent Application No. 10/309,585, in view of either *Keller*, U.S. Patent No. 4,997,432; *Yuan et al.*, U.S. Patent No. 5,676,701; or *Marnay*, U.S. Patent No. 5,314,477. In response to this provisional rejection, Applicants hereby submit a terminal disclaimer with regard to claim 1 of co-pending Application No. 10/309,585, thereby eliminating the co-pending '585 application from the prior art.

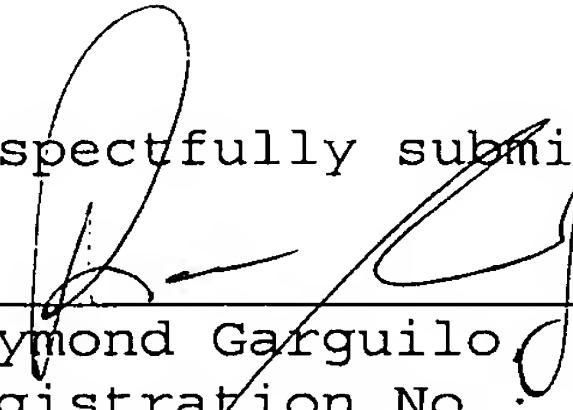
As it is believed that all of the rejections set forth in the Official Action have been fully met by the foregoing arguments and remarks, favorable reconsideration and allowance of all pending claims are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: September 18, 2006

Respectfully submitted,

By 
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